

SENATE BILL 5404

State of Washington 52nd Legislature 1991 Regular Session

By Senators Murray, Pelz, Skratek, A. Smith, Rinehart, L. Kreidler, McMullen and Gaspard.

Read first time January 30, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to "foundation for families act"; amending RCW
2 49.78.020, 49.78.030, 49.78.040, 49.78.050, 49.78.070, 49.78.130,
3 74.13.0901, 74.13.0902, 43.31.085, 43.31.512, 74.13.0903, 82.02.020,
4 49.12.121, 49.12.170, 49.46.130, 49.46.020, 49.46.100, 49.48.040, and
5 49.48.060; adding new sections to chapter 49.12 RCW; adding a new
6 section to chapter 49.78 RCW; adding a new section to chapter 74.13
7 RCW; adding a new section to chapter 82.02 RCW; adding new sections to
8 chapter 49.46 RCW; creating new sections; repealing RCW 49.78.060,
9 49.78.210, and 49.12.123; prescribing penalties; making appropriations;
10 providing effective dates; and declaring an emergency.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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15 PART I

16 LEGISLATIVE INTENT

17 NEW SECTION. **Sec. 101.** The legislature finds that in today's
18 economy, workers are finding it increasingly difficult to balance the
19 demands of work and the need to maintain healthy families. For many
20 families, economic survival requires two incomes. If both parents
21 work, the conflicts between job and family often are unavoidable.
22 Parents must find substitute care for children and for adult family
23 members who are unable to care for themselves. Family care is made
24 even more difficult when employees work under conditions that are not
25 flexible or supportive of families. Furthermore, children are working
26 at jobs for long hours, frequently in unsafe work environments, leaving

1 little energy for school work. These problems are exacerbated when
2 the state minimum wage fails to keep families above poverty level.

3 The legislature further finds that providing better opportunities
4 for families to balance work and the responsibilities of home is good
5 business for the economy. It has been shown that family supportive
6 benefits and wages result in higher productivity, reduced absenteeism,
7 and job retention. Because labor force projections indicate a
8 shrinking labor pool, it is necessary to fashion new policies to
9 maintain and enhance the state's current work force. Healthy families
10 are the foundation of a sound economy. It is imperative that a new
11 partnership be formed between business and families to maintain a
12 productive work force and ensure a competitive future for the state of
13 Washington.

14 PART II

15 LEAVE FROM EMPLOYMENT FOR CARE

16 OF FAMILY MEMBERS

17 **Sec. 201.** RCW 49.78.020 and 1989 1st ex.s. c 11 s 2 are each
18 amended to read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Child" means a biological ~~((or))~~, adopted, or foster child, a
22 legal ward, or a stepchild~~((, living with the employee))~~.

23 (2) "Department" means the department of labor and industries.

24 (3) "Employee" means a person other than an independent contractor
25 employed by an employer ~~((on a continuous basis for the previous))~~ for
26 at least fifty-two weeks within the previous seventy-eight weeks and
27 for at least ~~((thirty-five))~~ an average of thirty-two hours per week.

1 (4) "Employer" means: (a) Any person, firm, corporation,
2 partnership, business trust, legal representative, or other business
3 entity which engages in any business, industry, profession, or activity
4 in this state and includes any unit of local government including, but
5 not limited to, a county, city, town, municipal corporation, quasi-
6 municipal corporation, or political subdivision, which (i) employed a
7 daily average of ~~((one hundred))~~ fifty or more employees during the
8 last calendar quarter at the place where the employee requesting leave
9 reports for work, or (ii) employed a daily average of ~~((one hundred))~~
10 fifty or more employees during the last calendar quarter within a
11 twenty mile radius of the place where the employee requesting leave
12 reports for work, where the employer maintains a central hiring
13 location and customarily transfers employees among workplaces; and (b)
14 the state, state institutions, and state agencies.

15 (5) "Family leave" means leave from employment, as provided in RCW
16 49.78.030, to care for a newborn ~~((or)), a newly adopted child ~~((under~~~~
17 the age of six or a child under eighteen years old with a terminal
18 health condition, as provided in RCW 49.78.030)), or a newly placed
19 foster child, or to care for a family member with a serious health
20 condition.

21 (6) "Family member" means a child of the employee, the spouse of
22 the employee, or a parent of the employee or the employee's spouse.

23 (7) "Health care provider" means a person licensed as a physician
24 under chapter 18.71 ~~((RCW or an osteopath under chapter))~~ or 18.57 RCW.

25 ~~((+7))~~ (8) "Parent" means a biological, foster, or adoptive
26 parent, ~~((or))~~ a stepparent, or legal guardian.

27 ~~((+8))~~ (9) "Reduced leave schedule" means leave scheduled for
28 fewer than an employee's usual number of hours or days per workweek.

29 ~~((+9))~~ "Terminal health condition" means a condition caused by
30 injury, disease, or illness, that, within reasonable medical judgment,

1 ~~is incurable and will produce death within the period of leave to which~~
2 ~~the employee is entitled.))~~

3 (10) "Serious health condition" means an illness, injury,
4 impairment, or physical or mental condition, whether or not
5 preexisting, that requires:

6 (a) Inpatient care in a hospital, hospice, or residential medical
7 care facility; or

8 (b) Continuing treatment or continuing supervision by a health care
9 provider.

10 **Sec. 202.** RCW 49.78.030 and 1989 1st ex.s. c 11 s 3 are each
11 amended to read as follows:

12 (1) An employee is entitled to twelve workweeks of family leave
13 during any twenty-four month period to: (a) Care for a newborn child
14 ~~((or))~~ of the employee, an adopted child of the employee who is under
15 the age of ~~((six))~~ sixteen at the time of placement for adoption~~((7))~~
16 or~~((7))~~ a foster child when placement with the employee is the
17 permanent plan and the foster child is under the age of sixteen at the
18 time of placement; or (b) care for ~~((a child under eighteen years old~~
19 of the employee who has a terminal)) a family member with a serious
20 health condition. Leave under subsection (1)(a) of this section shall
21 be completed within twelve months after the birth or placement for
22 adoption or foster care, as applicable. ~~((An employee is entitled to~~
23 leave under subsection (1)(b) of this section only once for any given
24 child)) For the leave under subsection (1)(b) of this section to apply
25 for the care of the employee's child, the child must be under the age
26 of eighteen, or be eighteen years of age or older and incapable of
27 self-care because of a mental or physical impairment.

28 (2) Family leave may be taken on a reduced leave schedule subject
29 to the approval of the employer.

1 (3) The leave required by this section may be unpaid. If an
2 employer provides paid family leave for fewer than twelve workweeks,
3 the additional workweeks of leave added to attain the twelve-workweek
4 total may be unpaid. An employer may require an employee to first use
5 up the employee's total accumulation of leave to which the employee is
6 otherwise entitled before going on family leave; however, except as
7 provided in subsection (4) of this section, nothing in this section
8 requires more than twelve total workweeks of family leave during any
9 twenty-four month period. An employer is not required to allow an
10 employee to use the employee's other leave in place of the leave
11 provided under this chapter.

12 (4) The leave required by this section is in addition to any leave
13 for sickness or temporary disability because of pregnancy or
14 childbirth.

15 (5) An employer may limit or deny family leave to either:

16 (a) Up to ten percent of the employer's (~~workforce~~) work force in
17 the state designated as key personnel by the employer. Any designation
18 made under this (~~section~~) subsection shall take effect thirty days
19 after it is issued and may be changed no more than once in any twelve-
20 month period. The designation shall be in writing and shall be
21 displayed in a conspicuous place. An employer shall not designate key
22 personnel on the basis of age or gender or for the purpose of evading
23 the requirements of this chapter. No employee may be designated as key
24 personnel after giving notice of intent to take leave pursuant to RCW
25 49.78.040(~~(. The designation shall be in writing and shall be~~
26 ~~displayed in a conspicuous place)~~); or

27 (b) If the employer does not designate key personnel, the employees
28 designated as the highest paid ten percent of the employer's employees
29 in the state. Any designation made under this subsection shall be in
30 writing and may be changed no more than once in any twelve-month

1 period. The designation shall take effect thirty days after the
2 affected employees have been given written notice.

3 **Sec. 203.** RCW 49.78.040 and 1989 1st ex.s. c 11 s 4 are each
4 amended to read as follows:

5 (1) An employee planning to take family leave under RCW
6 49.78.030(1)(a) shall provide the employer with written notice at least
7 thirty days in advance of the anticipated date of delivery or placement
8 for adoption or foster care, stating the dates during which the
9 employee intends to take family leave. The employee shall adhere to
10 the dates stated in the notice unless:

11 (a) The birth is premature;

12 (b) The mother is incapacitated due to birth such that she is
13 unable to care for the child;

14 (c) The employee takes physical custody of the newly adopted child
15 at an unanticipated time and is unable to give notice thirty days in
16 advance; ~~((or))~~

17 (d) The employee takes physical custody of the newly placed foster
18 child at an unanticipated time and is unable to give notice thirty days
19 in advance; or

20 (e) The employer and employee agree to alter the dates of family
21 leave stated in the notice.

22 (2) In cases of premature birth, incapacity, or unanticipated
23 placement for adoption or foster care referred to in subsection (1) of
24 this section, the employee must give notice of revised dates of family
25 leave as soon as possible but at least within one working day of the
26 birth or placement ~~((for adoption))~~ or incapacitation of the mother.

27 (3) If family leave under RCW 49.78.030(1)(b) is foreseeable, the
28 employee shall provide the employer with written notice at least
29 fourteen days in advance of the expected leave and shall make a

1 reasonable effort to schedule the leave so as not to unduly disrupt the
2 operations of the employer. If family leave under RCW 49.78.030(1)(b)
3 is not foreseeable fourteen or more days before the leave is to take
4 place, the employee shall notify the employer of the expected leave as
5 soon as possible, but at least within one working day of the beginning
6 of the leave.

7 (4) If the employee fails to give the notice required by this
8 section, the employer may reduce or increase the family leave required
9 by this chapter by three weeks.

10 **Sec. 204.** RCW 49.78.050 and 1989 1st ex.s. c 11 s 5 are each
11 amended to read as follows:

12 (1) In the event of any dispute under this chapter regarding
13 premature birth, incapacitation of the mother, maternity disability, or
14 (~~terminal condition of a child~~) serious health condition of a family
15 member, an employer may require confirmation by a health care provider
16 of: (a) The date of the birth; (b) the date on which incapacity
17 because of childbirth or disability because of pregnancy or childbirth
18 commenced or will probably commence, and its probable duration; or (c)
19 for family leave under RCW 49.78.030(1)(b), the fact that the (~~child~~
20 ~~has a terminal~~) family member has a serious health condition.

21 (2) An employer may require, at the employer's expense, that the
22 employee obtain the opinion of a second health care provider selected
23 by the employer concerning any information required under subsection
24 (1) of this section. If the health care providers disagree on any
25 factor which is determinative of the employee's eligibility for family
26 leave, the two health care providers shall select a third health care
27 provider, whose opinion, obtained at the employer's expense, shall be
28 conclusive.

1 **Sec. 205.** RCW 49.78.070 and 1989 1st ex.s. c 11 s 7 are each
2 amended to read as follows:

3 (1) Subject to subsection (2) of this section, an employee who
4 exercises any right provided under RCW 49.78.030 shall be entitled, in
5 the following order of priority, upon return from leave or during any
6 reduced leave schedule:

7 (a) To the same position held by the employee when the leave
8 commenced; or

9 (b) If the employer's circumstances have so changed that the
10 employee cannot be reinstated under (a) of this subsection, to a
11 position with equivalent benefits and pay at a workplace within twenty
12 miles of the employee's workplace when leave commenced; or

13 (c) If the employer's circumstances have so changed that the
14 employee cannot be reinstated (~~((to the same position, or a position of~~
15 ~~equivalent pay and benefits))~~ under either (a) or (b) of this
16 subsection, the employee shall be reinstated in any other position
17 which is vacant and for which the employee is qualified. The filling
18 of a position by an employee on family leave under this chapter shall
19 not by itself constitute changed circumstances.

20 (2) The entitlement under subsection (1) of this section is subject
21 to bona fide changes in compensation or work duties, and does not apply
22 if:

23 (a) The employee's position is eliminated by a bona fide
24 restructuring, or reduction-in-force;

25 (b) The employee's workplace is permanently or temporarily shut
26 down for at least thirty days;

27 (c) The employee's workplace is moved to a location at least sixty
28 miles from the location of the workplace when leave commenced;

29 (d) An employee on family leave takes (~~(another job))~~ a job with
30 another employer working twenty hours or more per week; or

1 (e) The employee fails to provide timely notice of family leave as
2 required under RCW 49.78.040, or fails to return on the established
3 ending date of leave.

4 **Sec. 206.** RCW 49.78.130 and 1989 1st ex.s. c 11 s 13 are each
5 amended to read as follows:

6 No employer, employment agency, labor union, or other person shall
7 discharge, expel, or otherwise discriminate against any person because
8 he or she has opposed any practices forbidden by this chapter, or
9 because he or she has filed a complaint, testified, or assisted in any
10 proceeding under this chapter, or has exercised any rights afforded by
11 this chapter. No employer policy may be applied to limit or discourage
12 the use of the leave rights available under this chapter.

13 NEW SECTION. **Sec. 207.** A new section is added to chapter 49.12
14 RCW to read as follows:

15 No employer may discharge or in any manner discriminate against any
16 employee because he or she has filed a complaint, testified, or
17 assisted in any proceeding under RCW 49.12.270 through 49.12.295, or
18 has exercised any rights afforded by RCW 49.12.270 through 49.12.295.
19 No employer policy may be applied to limit or discourage the use of the
20 leave rights available under RCW 49.12.270 through 49.12.295.

21 NEW SECTION. **Sec. 208.** The following acts or parts of acts are
22 each repealed:

23 (1) RCW 49.78.060 and 1989 1st ex.s. c 11 s 6; and

24 (2) RCW 49.78.210 and 1989 1st ex.s. c 11 s 21.

25 NEW SECTION. **Sec. 209.** A new section is added to chapter 49.78
26 RCW to read as follows:

1 To facilitate the orderly application of chapter ... (H-1144/91),
2 Laws of 1991, to employees covered by an unexpired collective
3 bargaining agreement that expires on or after September 1, 1991, or by
4 an employee benefit program or plan with a stated year ending on or
5 after the effective date of this section, the chapter shall apply to
6 these employees the later of: (1) The first day following expiration
7 of the collective bargaining agreement; or (2) the first day of the
8 next plan year, as applicable.

9 PART III

10 EMPLOYER-ASSISTED CHILD AND FAMILY CARE

11 A. Child and Family Care Partnership

12 NEW SECTION. **Sec. 301.** The legislature finds that efforts by
13 Washington state to encourage employers' involvement in meeting their
14 employees' child care needs represent an effective and successful
15 public-private partnership. The legislature further finds that
16 employees' caregiving responsibilities include care of adult family
17 members who are unable to care for themselves, as well as children, and
18 that employer support of all of an employee's caregiving
19 responsibilities can result in higher productivity, reduced
20 absenteeism, and higher employee retention rates. It is the intent of
21 the legislature to build upon the successful efforts of the child care
22 partnership and the child care facility fund and to increase the
23 effectiveness of these programs. It is also the legislature's intent
24 to have new growth and development pay a fair share of the cost of
25 additional child care facilities and services needed as a result of the
26 new development.

1 **Sec. 302.** RCW 74.13.0901 and 1989 c 381 s 4 are each amended to
2 read as follows:

3 The child and family care partnership is established as a
4 subcommittee of the child care coordinating committee to increase
5 employer assistance and involvement in child and family care, and to
6 foster cooperation between business and government to improve the
7 availability, quality, and affordability of child and family care
8 services in the state.

9 (1) The partnership shall have ~~((nine))~~ eleven members ~~((who may be
10 drawn from the membership of the child care coordinating committee))~~.
11 The secretary of the department of social and health services shall
12 appoint the partnership members, who shall include:

13 (a) At least two members representing labor organizations;

14 (b) At least one member representing each of the following:
15 Businesses with one through fifty employees, businesses with fifty-one
16 through two hundred employees, and businesses with more than two
17 hundred employees; ~~((and))~~

18 (c) At least one representative of local child care resource and
19 referral organizations;

20 (d) At least one representative of organizations that provide adult
21 day care services to adults who are unable to care for themselves; and

22 (e) At least one representative of persons with disabilities.

23 (2) The partnership shall follow the same policies and procedures
24 adopted by the child care coordinating committee, and members shall be
25 reimbursed for travel expenses as provided in RCW 43.03.050 and
26 43.03.060.

27 (3) To the extent possible within available funds, the partnership
28 shall:

29 (a) Review and propose statutory and administrative changes to
30 encourage employer involvement in child and family care and

1 partnerships between employers and the public sector to increase the
2 quantity, quality, and affordability of child and family care services
3 and facilities in this state;

4 (b) Review public and private child and family care programs with
5 the purpose of enhancing communications and coordination among
6 business, labor, public agencies, ~~((and))~~ child care providers, and
7 long-term care providers in order to encourage employers to develop and
8 implement child and family care services for their employees;

9 (c) Evaluate alternative employer-assisted child care service
10 systems, in the context of the policies set forth in RCW 74.13.085, and
11 recommend to the legislature and local governments ways to encourage
12 and enhance employer-assisted child care services in the state,
13 including statutory and administrative changes;

14 (d) Evaluate the impact of workplace personnel practices and
15 policies, including flexible work schedules, on the ability of
16 ~~((parents))~~ employees to access or provide care for their children and
17 adult family members who are unable to care for themselves, and make
18 recommendations to employers and the legislature in this regard; and

19 ~~((Study the liability insurance issues related to the provision~~
20 ~~of employer-assisted child care and report the findings and~~
21 ~~recommendations to the legislature; and~~

22 ~~((f))~~) Advise and assist the employer liaison in the implementation
23 of its duties under RCW 74.13.0902.

24 All findings and recommendations of the partnership to the
25 legislature shall be incorporated into ~~((the))~~ an annual report ~~((of~~
26 ~~the child care coordinating committee required under RCW 74.13.090))~~ to
27 appropriate committees of the legislature by December 1 of each year.

28 **Sec. 303.** RCW 74.13.0902 and 1989 c 381 s 6 are each amended to
29 read as follows:

1 (~~An~~) Two employer liaison positions (~~is~~) are established in the
2 department of social and health services to be colocated at the
3 business assistance center established under RCW 43.31.083. The
4 employer liaisons shall, within appropriated funds:

5 (1) Staff and assist the child and family care partnership in the
6 implementation of its duties under RCW 74.13.0901;

7 (2) Provide technical assistance to employers regarding child and
8 family care services, working with and through (~~local~~) community-
9 based child care resource and referral organizations and long-term care
10 organizations whenever possible. Such technical assistance shall
11 include at a minimum:

12 (a) Assessing the child and family care needs of employees and
13 prospective employees;

14 (b) Reviewing options available to employers interested in
15 increasing access to child and family care for their employees;

16 (c) Developing techniques to permit small businesses to increase
17 access to child and family care for their employees;

18 (d) Reviewing methods of evaluating the impact of child and family
19 care activities on employers; and

20 (e) Preparing, collecting, and distributing current information for
21 employers on options for increasing involvement in child and family
22 care; and

23 (3) Provide assistance to (~~local~~) community-based child care
24 resource and referral organizations and long-term care organizations to
25 increase their capacity to provide quality technical assistance to
26 employers in their community.

27 **Sec. 304.** RCW 43.31.085 and 1989 c 430 s 2 are each amended to
28 read as follows:

29 The business assistance center shall:

1 (1) Serve as the state's lead agency and advocate for the
2 development and conservation of businesses.

3 (2) Coordinate the delivery of state programs to assist businesses.

4 (3) Provide comprehensive referral services to businesses requiring
5 government assistance.

6 (4) Serve as the business ombudsman within state government and
7 advise the governor and the legislature of the need for new legislation
8 to improve the effectiveness of state programs to assist businesses.

9 (5) Aggressively promote business awareness of the state's business
10 programs and distribute information on the services available to
11 businesses.

12 (6) Develop, in concert with local economic development and
13 business assistance organizations, coordinated processes that
14 complement both state and local activities and services.

15 (7) The business assistance center shall work with other federal,
16 state, and local agencies and organizations to ensure that business
17 assistance services including small business, trade services, and
18 distressed area programs are provided in a coordinated and cost-
19 effective manner.

20 (8) In collaboration with the (~~child care coordinating committee~~
21 ~~in the department of social and health services~~) child and family care
22 partnership established pursuant to RCW 74.13.0901, prepare and
23 disseminate information on child and family care options for employers
24 and the existence of the program. As much as possible, and through
25 interagency agreements where necessary, such information should be
26 included in the routine communications to employers from (a) the
27 department of revenue, (b) the department of labor and industries, (c)
28 the department of community development, (d) the employment security
29 department, (e) the department of trade and economic development, (f)

1 the small business development center, and (g) the department of social
2 and health services.

3 (9) In collaboration with the (~~child care coordinating committee~~
4 ~~in the department of social and health services~~) child and family care
5 partnership established pursuant to RCW 74.13.0901, compile information
6 on and facilitate employer access to individuals, firms, organizations,
7 and agencies that provide technical assistance to employers to enable
8 them to develop and support child and family care services or
9 facilities.

10 (10) Actively seek public and private money to support the child
11 care facility fund described in RCW 43.31.502, staff and assist the
12 child care facility fund committee as described in RCW 43.31.504, and
13 work to promote applications to the committee for loan guarantees,
14 loans, and grants.

15 **Sec. 305.** RCW 43.31.512 and 1989 c 430 s 7 are each amended to
16 read as follows:

17 The child care facility fund committee shall award loan guarantees,
18 loans or grants to those persons, businesses, or organizations meeting
19 the minimum standards set forth in this chapter who will best serve the
20 intent of the chapter to increase the availability of high quality,
21 affordable child care in Washington state. The committee shall
22 (~~promulgate~~) adopt rules regarding the application for and
23 disbursement of loan guarantees, loans, or grants from the fund,
24 including loan terms and repayment procedures.

25 (1) At a minimum, such rules shall require an applicant to submit
26 a plan which includes a detailed description of:

27 (~~(1)~~) (a) The need for a new or improved child care facility in
28 the area served by the applicant;

1 and coordination of child care services occurs and that linkages
2 between employers, consumers, and child care providers are established.
3 The legislature finds that establishment of the office of the child
4 care resources coordinator, the child care coordinating committee, and
5 the child care partnership are first steps toward achieving an
6 integrated child care system. Additional steps, including the support
7 of existing community-based child care resource and referral programs,
8 and the development of new child care resource and referral programs,
9 must be taken to help parents obtain appropriate child care for their
10 children, increase the supply of child care services and coordination
11 with employers, and improve the quality of child care services through
12 training and support of child care providers.

13 The legislature intends that child care resource and referral
14 services be provided in collaboration with local communities,
15 employers, consumers, and state and federal agencies.

16 NEW SECTION. **Sec. 307.** A new section is added to chapter 74.13
17 RCW to read as follows:

18 (1) Persons or organizations may apply for funding to establish or
19 operate a community-based child care resource and referral program
20 through the office of the child care resources coordinator. In
21 evaluating applications for funding, the coordinator shall consider
22 the applicant's ability to offer, or make progress towards offering,
23 the activities provided in subsection (2) of this section. The
24 coordinator shall also consider the number of children under age twelve
25 in the geographic area that will be served by the program when
26 determining the level of funding for the program.

27 (2) Community-based child care resource and referral programs shall
28 develop a service plan that includes the following components:

1 (a) Provide parents with information regarding child care,
2 including but not limited to the location of child care services,
3 information regarding child care licensing requirements, how to choose
4 quality child care services, and the availability of funds to subsidize
5 child care costs;

6 (b) Participate with other community agencies or organizations in
7 the provision of parent support services, such as parent education
8 classes and information on community services available to families;

9 (c) Provide support to child care providers, such as: Information
10 regarding training opportunities, development of appropriate training
11 as needed, resource libraries, toy lending libraries, meeting space,
12 information regarding the operation of child care as a small business,
13 and liaison with department child care licensors;

14 (d) Recruit licensed child care providers, emphasizing geographic
15 or program areas that have an inadequate supply of child care services;

16 (e) In cooperation with the child care partnership established
17 under this chapter, provide technical assistance to employers regarding
18 employee child care benefits;

19 (f) Directly or through a coalition of child care resource and
20 referral programs, provide information to local and state policy makers
21 regarding child care supply and demand, and advocate for increased
22 public and private sector resources for child care services; and

23 (g) Coordinate a local response to the demand for quality child
24 care services, and participate in coordinated efforts for delivery of
25 services to families.

26 (3) Twenty-five percent of the funding for community-based child
27 care resource and referral agencies under this section shall be
28 community matching funds provided by private or public entities in the
29 community served by the program requesting funding. Contributions of

1 materials, supplies, or physical facilities may be considered as all or
2 part of the matching funds provided.

3 **Sec. 308.** RCW 74.13.0903 and 1989 c 381 s 5 are each amended to
4 read as follows:

5 The office of the child care resources coordinator is established
6 to operate under the authority of the department of social and health
7 services. The office shall, within appropriated funds:

8 (1) Staff and assist the child care coordinating committee in the
9 implementation of its duties under RCW 74.13.090;

10 (2) Work with local governments, nonprofit organizations,
11 businesses, and community child care advocates to create local child
12 care resource and referral organizations(~~(. These organizations may~~
13 ~~carry out needs assessments, resource development, provider training,~~
14 ~~technical assistance, and parent information and training))~~);

15 (3) Actively seek public and private money for distribution as
16 grants to potential or existing (~~(local))~~ community-based child care
17 resource and referral (~~(organizations. No grant shall be distributed~~
18 ~~that is greater than twenty five thousand dollars))~~ programs as
19 provided in section 307 of this act;

20 (4) (~~Adopt rules regarding the application for and distribution of~~
21 ~~grants to local child care resource and referral organizations. The~~
22 ~~rules shall, at a minimum, require an applicant to submit a plan for~~
23 ~~achieving the following objectives:~~

24 ~~(a) Provide parents with information about child care resources,~~
25 ~~including location of services and subsidies;~~

26 ~~(b) Carry out child care provider recruitment and training~~
27 ~~programs;~~

28 ~~(c) Offer support services, such as parent and provider seminars,~~
29 ~~toy-lending libraries, and substitute banks;~~

1 Except only as expressly provided in RCW 67.28.180 and 67.28.190
2 and the provisions of chapter 82.14 RCW, the state preempts the field
3 of imposing taxes upon retail sales of tangible personal property, the
4 use of tangible personal property, parimutuel wagering authorized
5 pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county,
6 town, or other municipal subdivision shall have the right to impose
7 taxes of that nature. Except as provided in RCW 82.02.050 through
8 82.02.090 and section 310 of this act, no county, city, town, or other
9 municipal corporation shall impose any tax, fee, or charge, either
10 direct or indirect, on the construction or reconstruction of
11 residential buildings, commercial buildings, industrial buildings, or
12 on any other building or building space or appurtenance thereto, or on
13 the development, subdivision, classification, or reclassification of
14 land. However, this section does not preclude dedications of land or
15 easements within the proposed development or plat which the county,
16 city, town, or other municipal corporation can demonstrate are
17 reasonably necessary as a direct result of the proposed development or
18 plat to which the dedication of land or easement is to apply.

19 This section does not prohibit voluntary agreements with counties,
20 cities, towns, or other municipal corporations that allow a payment in
21 lieu of a dedication of land or to mitigate a direct impact that has
22 been identified as a consequence of a proposed development,
23 subdivision, or plat. A local government shall not use such voluntary
24 agreements for local off-site transportation improvements within the
25 geographic boundaries of the area or areas covered by an adopted
26 transportation program authorized by chapter 39.92 RCW. Any such
27 voluntary agreement is subject to the following provisions:

28 (1) The payment shall be held in a reserve account and may only be
29 expended to fund a capital improvement agreed upon by the parties to
30 mitigate the identified, direct impact;

1 (2) The payment shall be expended in all cases within five years of
2 collection; and

3 (3) Any payment not so expended shall be refunded with interest at
4 the rate applied to judgments to the property owners of record at the
5 time of the refund; however, if the payment is not expended within five
6 years due to delay attributable to the developer, the payment shall be
7 refunded without interest.

8 No county, city, town, or other municipal corporation shall require
9 any payment as part of such a voluntary agreement which the county,
10 city, town, or other municipal corporation cannot establish is
11 reasonably necessary as a direct result of the proposed development or
12 plat.

13 Nothing in this section prohibits cities, towns, counties, or other
14 municipal corporations from collecting reasonable fees from an
15 applicant for a permit or other governmental approval to cover the cost
16 to the city, town, county, or other municipal corporation of processing
17 applications, inspecting and reviewing plans, or preparing detailed
18 statements required by chapter 43.21C RCW.

19 This section does not limit the existing authority of any county,
20 city, town, or other municipal corporation to impose special
21 assessments on property specifically benefitted thereby in the manner
22 prescribed by law.

23 Nothing in this section prohibits counties, cities, or towns from
24 imposing or permits counties, cities, or towns to impose water, sewer,
25 natural gas, drainage utility, and drainage system charges: PROVIDED,
26 That no such charge shall exceed the proportionate share of such
27 utility or system's capital costs which the county, city, or town can
28 demonstrate are attributable to the property being charged: PROVIDED
29 FURTHER, That these provisions shall not be interpreted to expand or

1 contract any existing authority of counties, cities, or towns to impose
2 such charges.

3 Nothing in this section prohibits a transportation benefit district
4 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
5 the legislative authority of a county, city, or town from approving the
6 imposition of such fees within a transportation benefit district.

7 Nothing in this section prohibits counties, cities, or towns from
8 imposing transportation impact fees authorized pursuant to chapter
9 39.92 RCW.

10 Nothing in this section prohibits counties, cities, or towns from
11 requiring property owners to provide relocation assistance to tenants
12 under RCW 59.18.440 and 59.18.450.

13 This section does not apply to special purpose districts formed and
14 acting pursuant to Titles 54, 56, 57, or 87 RCW, nor is the authority
15 conferred by these titles affected.

16 NEW SECTION. **Sec. 310.** A new section is added to chapter 82.02
17 RCW to read as follows:

18 (1) The legislature finds that it is an important public purpose to
19 promote the availability of quality and affordable child care.
20 Affordable and quality child care is important for the well-being of
21 children of working parents, for the stability of the family and the
22 work force, and for economic prosperity. The legislature also finds
23 that new development in communities experiencing rapid growth causes a
24 need for additional community child care facilities and services that
25 cannot be absorbed by existing facilities or services. It is the
26 intent of the legislature that:

27 (a) Counties, cities, and towns may require, by ordinance, that
28 new growth and development pay a proportionate share of the cost of new

1 child care facilities and services needed as a result of the new
2 development; and

3 (b) Impact fees for child care facilities and services are imposed
4 through established procedures and criteria so that specific
5 developments do not pay arbitrary fees or duplicate fees for the same
6 impact.

7 (2) Counties, cities, and towns that are required or choose to
8 plan under RCW 36.70A.040 are authorized to impose impact fees on
9 development activity. The impact fees:

10 (a) Are only imposed after a finding by the county, city, or town
11 that a shortage of adequate child care facilities and services exist;

12 (b) Are only imposed after the county, city, or town has adopted,
13 by resolution, a child care plan that addresses the forecasted needs
14 for child care facilities and services, how the needs will be met, and
15 how the needed child care facilities and services are financed through
16 a balance of public and private sources; and

17 (c) Are only imposed for child care facilities and services that
18 are reasonably related to new development, that do not exceed a
19 proportionate share of the costs of the child care facilities and
20 services, and that are used only for child care facilities and services
21 that will reasonably benefit the new development.

22 (3) The impact fee ordinance by which impact fees are imposed for
23 child care facilities or services shall:

24 (a) Include a schedule of fees that is based on a formula or other
25 method to ensure that the fees are reasonable and comply with
26 subsection (2)(c) of this section;

27 (b) Provide for credit for child care facilities or services
28 provided by the developer;

1 (c) Allow the county, city, or town to adjust the standard impact
2 fee imposed under this section to consider unusual circumstances in
3 specific cases to ensure that the impact fees are imposed fairly; and

4 (d) Provide for a refund procedure if the county, city, or town
5 fails to expend or encumber the impact fees within six years of when
6 the fee is collected from the developer or if the developer does not
7 proceed with the development and no impact has resulted.

8 (4) Impact fees collected under this section are deposited in a
9 child care fund. The moneys deposited in the fund are used solely to
10 increase the supply of child care facilities and services in the
11 county, city, or town.

12 (5) The county, city, or town shall establish an advisory
13 committee to evaluate the impact fee schedule, to advise the county,
14 city, or town on the administration of the impact fee ordinance, and to
15 make recommendations periodically to the county, city, or town
16 regarding improving the impact fee process. The advisory committee
17 shall be representative of public officials, developers, and child care
18 providers.

19 PART IV
20 CHILD LABOR

21 A. Hours of Work

22 **Sec. 401.** RCW 49.12.121 and 1989 c 1 s 3 are each amended to read
23 as follows:

24 (~~The committee, or the director,~~) (1) The department may at any
25 time inquire into wages, hours, and conditions of labor of minors
26 employed in any trade, business or occupation in the state of
27 Washington and may adopt special rules for the protection of the

1 safety, health and welfare of minor employees. (~~The minimum wage for~~
2 ~~minors shall be as prescribed in RCW 49.46.020.~~)

3 (2) The (~~committee~~) department shall issue work permits to
4 employers for the employment of minors(~~(, after being assured)~~) if the
5 proposed employment (~~(of a minor)~~) meets the standards (~~(set forth~~
6 concerning)) for the health, safety and welfare of minors (~~(as set~~
7 forth in the rules and regulations promulgated by the committee)
8 required by this chapter or adopted by department rule. To implement
9 state policy to assure the attendance of children in the public
10 schools, an employer employing a minor shall obtain a work permit
11 issued by the department. The permit shall be kept on file during the
12 employment of minors. No minor person shall be employed in any
13 occupation, trade or industry subject to this 1973 amendatory act,
14 unless a work permit has been properly issued, with the consent of the
15 parent, guardian or other person having legal custody of the minor and
16 with the approval of the school which (~~such~~) the minor may then be
17 attending.

18 (3)(a) Minors legally required to attend school may not be employed
19 during school hours except by special permission of school officials as
20 provided in RCW 28A.225.010 and 28A.225.080.

21 (b) Minors under the age of sixteen may not work more than three
22 hours a day on school days or more than eighteen hours a week during
23 the school year.

24 (c) Minors who are sixteen and seventeen years of age may not work
25 more than four hours a day on school days or more than twenty-eight
26 hours a week during the school year.

27 (d) No minor may work more than eight hours a day or more than
28 forty hours a week. No minor may work more than five days in a week.

29 (e) This subsection (3) shall not apply to minors sixteen years of
30 age or older who are emancipated by court order.

1 (4) The minimum wage for minors shall be as prescribed in RCW
2 49.46.020.

3 (5) For the purposes of this section, "school year" means the weeks
4 during which school is in session in the school district attended by
5 the minor or, if the minor is not enrolled in school, in the school
6 district in which the minor resides.

7 NEW SECTION. Sec. 402. RCW 49.12.123 and 1983 c 3 s 156 & 1973
8 c 51 s 3 are each repealed.

9 B. Enforcement of Child Labor Standards

10 NEW SECTION. Sec. 403. The legislature finds that the future of
11 the state depends on the education and well-being of the state's
12 children. Investigations of three hundred ninety-five workplace
13 injuries to minors by the department of labor and industries indicates
14 that over forty percent of the injuries occurred at worksites not in
15 compliance with child labor laws. Almost half of the injuries that
16 resulted in time off work occurred at a worksite not in compliance with
17 child labor laws.

18 The legislature finds that employment of minors requires strict
19 adherence to standards that protect the safety and health of children
20 and ensure that their education receives top priority. The purposes of
21 this act are to protect children in the work force and provide the
22 department of labor and industries the enforcement resources necessary
23 to assure that minors are employed in accordance with the state's child
24 labor standards.

1 NEW SECTION. **Sec. 404.**

2 (1)(a) Except as otherwise provided in
3 subsection (2) of this section, if the director, or the director's
4 designee, finds that an employer has violated any of the requirements
5 of RCW 49.12.121 or 49.12.123, or a rule or order adopted or variance
6 granted under RCW 49.12.121 or 49.12.123, a citation stating the
7 violations shall be issued to the employer. The citation shall be in
8 writing, describing the nature of the violation including reference to
9 the standards, rules, or orders alleged to have been violated. An
10 initial citation for failure to comply with RCW 49.12.123 or rules
11 requiring a minor work permit and maintenance of records shall state a
12 specific time for abatement of the violation to allow the employer to
13 correct the violation without penalty. The director or the director's
14 designee may establish a specific time for abatement of other
15 nonserious violations in lieu of a penalty for first time violations.
16 The citation and a proposed penalty assessment shall be given to the
17 highest management official available at the workplace or be mailed to
18 the employer at the workplace. In addition, the department will mail
19 a copy of the citation and proposed penalty assessment to the central
20 personnel office of the employer. Citations issued under this section
21 shall be posted at or near the place where the violation occurred.

22 (b) Except when an employer corrects a violation as provided in (a)
23 of this subsection, he or she shall be assessed a civil penalty of not
24 more than one thousand dollars depending on the size of the business
25 and the gravity of the violation. The employer shall pay the amount
26 assessed within thirty days of receipt of the assessment or notify the
27 director of his or her intent to appeal the citation or the assessment
28 penalty as provided in section 405 of this act.

29 (2) If the director, or the director's designee, finds that an
30 employer has committed a serious or repeated violation of the
requirements of RCW 49.12.121 or 49.12.123, or any rule or order

1 adopted or variance granted under RCW 49.12.121 or 49.12.123, the
2 employer is subject to a civil penalty of not more than one thousand
3 dollars for each day the violation continues. For the purposes of this
4 subsection, a serious violation shall be deemed to exist if death or
5 serious physical or emotional harm has resulted or could result from a
6 condition that exists, or from one or more practices, means, methods,
7 operations, or processes that have been adopted or are in use by the
8 employer, unless the employer did not, and could not with the exercise
9 of reasonable diligence, know of the presence of the violation.

10 (3) In addition to any other authority provided in this section,
11 if, upon inspection or investigation, the director, or director's
12 designee, believes that an employer has violated RCW 49.12.121 or
13 49.12.123, or a rule or order adopted or variance granted under RCW
14 49.12.121 or 49.12.123, and that the violation creates a danger from
15 which there is a substantial probability that death or serious physical
16 harm could result to a minor employee, the director, or director's
17 designee, may issue an order immediately restraining the condition,
18 practice, method, process, or means creating the danger in the
19 workplace. An order issued under this subsection may require the
20 employer to take steps necessary to avoid, correct, or remove the
21 danger and to prohibit the employment or presence of a minor in
22 locations or under conditions where the danger exists.

23 (4) An employer who violates any of the posting requirements of RCW
24 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed
25 a civil penalty of not more than one hundred dollars for each
26 violation.

27 (5) A person who gives advance notice, without the authority of the
28 director, of an inspection to be conducted under this chapter shall be
29 assessed a civil penalty of not more than one thousand dollars.

1 (6) Penalties assessed under this section shall be paid to the
2 director and deposited into the general fund.

3 NEW SECTION. **Sec. 405.** A person, firm, or corporation aggrieved
4 by an action taken or decision made by the department under section 404
5 of this act may appeal the action or decision to the director by filing
6 notice of the appeal with the director within thirty days of the
7 department's action or decision. A notice of appeal filed under this
8 section shall stay the effectiveness of a citation or notice of the
9 assessment of a penalty pending review of the appeal by the director,
10 but such appeal shall not stay the effectiveness of an order of
11 immediate restraint issued under section 404 of this act. Upon receipt
12 of an appeal, a hearing shall be held in accordance with chapter 34.05
13 RCW. The director shall issue all final orders after the hearing. The
14 final orders are subject to appeal in accordance with chapter 34.05
15 RCW. Orders not appealed within the time period specified in chapter
16 34.05 RCW are final and binding.

17 NEW SECTION. **Sec. 406.** An employer who knowingly or recklessly
18 violates the requirements of RCW 49.12.121 or 49.12.123, or a rule or
19 order adopted under RCW 49.12.121 or 49.12.123, is guilty of a gross
20 misdemeanor. An employer whose practices in violation of the
21 requirements of RCW 49.12.121 or 49.12.123, or a rule or order adopted
22 under RCW 49.12.121 or 49.12.123, result in the death or permanent
23 disability of a minor employee is guilty of a class C felony.

24 **Sec. 407.** RCW 49.12.170 and 1973 2nd ex.s. c 16 s 16 are each
25 amended to read as follows:

26 Except as otherwise provided in section 404 or 406 of this act, any
27 employer employing any person for whom a minimum wage or standards,

1 conditions, and hours of labor have been specified, at less than said
2 minimum wage, or under standards, or conditions of labor or at hours of
3 labor prohibited by the rules and regulations of the committee; or
4 violating any other of the provisions of this 1973 amendatory act,
5 shall be deemed guilty of a misdemeanor, and shall, upon conviction
6 thereof, be punished by a fine of not less than twenty-five dollars nor
7 more than one thousand dollars.

8 NEW SECTION. **Sec. 408.** The penalties established in sections
9 404 and 406 of this act for violations of RCW 49.12.121 and 49.12.123
10 are exclusive remedies.

11 PART V

12 WAGES AND HOURS STANDARDS

13 A. Overtime Hours of Work

14 **Sec. 501.** RCW 49.46.130 and 1989 c 104 s 1 are each amended to
15 read as follows:

16 (1) (~~No employer shall employ any of his employees for a work week~~
17 ~~longer than forty hours unless such employee receives compensation for~~
18 ~~his employment in excess of the hours above specified at a rate not~~
19 ~~less than one and one-half times the regular rate at which he is~~
20 ~~employed, except that the provisions of this subsection (1) shall)) No
21 employer shall employ any employee more than forty hours in any work
22 week unless the employee receives compensation for his or her
23 employment at a rate of pay not less than one and one-half times the
24 employee's regular rate of pay for all hours worked over forty hours in
25 the work week.~~

26 (2) This section does not apply to:

1 (a) Any person exempted pursuant to RCW 49.46.010(5) (~~as now or~~
2 hereafter amended and the provision of this subsection shall not apply
3 to))*i*

4 (b) Employees who request compensating time off in lieu of overtime
5 pay (~~nor to~~)*i*

6 (c) Any individual employed as a seaman whether or not the seaman
7 is employed on a vessel other than an American vessel(~~nor to~~)*i*

8 (d) Seasonal employees who are employed at concessions and
9 recreational establishments at agricultural fairs, including those
10 seasonal employees employed by agricultural fairs, within the state
11 provided that the period of employment for any seasonal employee at any
12 or all agricultural fairs does not exceed fourteen working days a
13 year(~~nor to~~)*i*

14 (e) Any individual employed as a motion picture projectionist if
15 that employee is covered by a contract or collective bargaining
16 agreement which regulates hours of work and overtime pay(~~nor to~~)*i*

17 (f) An individual employed as a truck or bus driver who is subject
18 to the provisions of the Federal Motor Carrier Act (49 U.S.C. Sec. 3101
19 et seq. and 49 U.S.C. Sec. 10101 et seq.), if the compensation system
20 under which the truck or bus driver is paid includes overtime pay,
21 reasonably equivalent to that required by this subsection, for working
22 longer than forty hours per week(~~nor to~~)*i*

23 ~~(2) No public agency shall be deemed to have violated subsection~~
24 ~~(1) of this section with respect to the employment of any employee in~~
25 ~~fire protection activities or any employee in law enforcement~~
26 ~~activities (including security personnel in correctional institutions)~~
27 ~~if: (a) In a work period of twenty eight consecutive days the employee~~
28 ~~receives for tours of duty which in the aggregate exceed two hundred~~
29 ~~and forty hours; or (b) in the case of such an employee to whom a work~~
30 ~~period of at least seven but less than twenty eight days applies, in~~

1 his work period the employee receives for tours of duty which in the
2 aggregate exceed a number of hours which bears the same ratio to the
3 number of consecutive days in his work period as two hundred forty
4 hours bears to twenty-eight days; compensation at a rate not less than
5 one and one-half times the regular rate at which he is employed;
6 ~~PROVIDED, That this section shall not apply to))i~~

7 (g) Any individual employed (i) on a farm, in the employ of any
8 person, in connection with the cultivation of the soil, or in
9 connection with raising or harvesting any agricultural or horticultural
10 commodity, including raising, shearing, feeding, caring for, training,
11 and management of livestock, bees, poultry, and furbearing animals and
12 wildlife, or in the employ of the owner or tenant or other operator of
13 a farm in connection with the operation, management, conservation,
14 improvement, or maintenance of such farm and its tools and equipment;
15 or (ii) ~~((in packing, packaging, grading, storing or delivering to~~
16 ~~storage, or to market or to a carrier for transportation to market, any~~
17 ~~agricultural or horticultural commodity; or (iii) commercial canning,~~
18 ~~commercial freezing, or any other commercial processing, or)) with~~
19 respect to services performed in connection with the cultivation,
20 raising, harvesting, and processing of oysters ~~((or in connection with~~
21 ~~any agricultural or horticultural commodity after its delivery to a~~
22 ~~terminal market for distribution for consumption: PROVIDED FURTHER,~~
23 ~~That in))i~~ or

24 (h) Any industry in which federal law provides for an overtime
25 payment based on a work week other than forty hours ~~((then provisions~~
26 ~~of this section shall not apply;)).~~ However, the provisions of the
27 federal law regarding overtime payment based on a work week other than
28 forty hours shall nevertheless apply to employees covered by this
29 section without regard to the existence of actual federal jurisdiction
30 over the industrial activity of the particular employer within this

1 state(~~(: PROVIDED FURTHER, That)~~). For the purposes of this
2 subsection, "industry" (~~(as that term is used in this section shall~~
3 ~~mean))~~ means a trade, business, industry, or other activity, or branch,
4 or group thereof, in which individuals are gainfully employed (section
5 3(h) of the Fair Labor Standards Act of 1938, as amended (Public Law
6 93-259).

7 (3) No public agency shall be deemed to have violated subsection
8 (1) of this section with respect to the employment of any employee in
9 fire protection activities or any employee in law enforcement
10 activities (including security personnel in correctional institutions)
11 if: (a) In a work period of twenty-eight consecutive days the employee
12 receives for tours of duty which in the aggregate exceed two hundred
13 forty hours; or (b) in the case of such an employee to whom a work
14 period of at least seven but less than twenty-eight days applies, in
15 his or her work period the employee receives for tours of duty which in
16 the aggregate exceed a number of hours which bears the same ratio to
17 the number of consecutive days in his or her work period as two hundred
18 forty hours bears to twenty-eight days; compensation at a rate not less
19 than one and one-half times the regular rate at which he or she is
20 employed.

21 NEW SECTION. Sec. 502. (1) Except as otherwise provided in this
22 section, no employer may require an employee to work: (a) More than
23 eight hours in any work day; or (b) more than forty hours in any work
24 week. However, this section does not prohibit an employee from
25 voluntarily agreeing to work more than eight hours in any work day or
26 more than forty hours in any work week, subject to the requirements of
27 RCW 49.46.130.

28 (2) Notwithstanding subsection (1) of this section, an employee may
29 be required to work up to ten hours in a work day if the employer's

1 work week is based on four ten-hour days in a work week. An employee
2 is not prohibited from voluntarily agreeing to work more than ten hours
3 in a work day, subject to the requirements of RCW 49.46.130.

4 (3) This section does not apply to:

5 (a) An employer who employs fewer than twenty-five individuals;

6 (b) An individual exempt under RCW 49.46.010(5) or 49.46.130(2),
7 except for RCW 49.46.130(2)(f);

8 (c) An individual employed in fire protection or law enforcement
9 activities; or

10 (d) Work performed in emergency situations that endanger public
11 health and safety, including, but not limited to, fires, natural
12 disasters, civil disorders, utility interruptions, services required by
13 the armed forces of the United States, or other situations determined
14 by the department to be emergencies endangering public health and
15 safety.

16 No exemption under this section shall be deemed to provide an
17 exemption under RCW 49.46.130.

18 NEW SECTION. **Sec. 503.** (1) No employer may discharge or in any
19 manner discriminate against an employee because the employee exercises
20 any of the rights provided in section 502 of this act.

21 (2) Any employee who believes that he or she has been discharged or
22 otherwise discriminated against in violation of this section may,
23 within thirty days after such violation occurs, file a complaint with
24 the director alleging such discrimination. Upon receipt of the
25 complaint, the director shall cause an investigation to be made as the
26 director deems appropriate. If after investigation, the director
27 determines that the provisions of this section have been violated, the
28 director shall bring an action in the superior court of the county in
29 which the violation is alleged to have occurred against the person or

1 persons alleged to have violated the provisions of this section. If
2 the director determines that the provisions of this section have not
3 been violated, the employee may institute the action on his or her own
4 behalf within thirty days of receiving notice of the director's
5 determination. In any action under this section, the superior court
6 shall have jurisdiction, for cause shown, to restrain violations of
7 subsection (1) of this section and to order all appropriate relief
8 including rehiring or reinstatement of the employee to his or her
9 former position with back pay.

10 (3) Within ninety days of the receipt of the complaint filed under
11 this section, the director shall notify the complainant of the
12 determination under subsection (2) of this section.

13 NEW SECTION. **Sec. 504.** If employees are covered by an unexpired
14 collective bargaining agreement containing terms that conflict with
15 section 502 of this act, and the agreement expires on or after the
16 effective date of this act, section 502 of this act shall apply to
17 these employees on the first day following expiration of the collective
18 bargaining agreement.

19 B. Minimum Wage

20 **Sec. 505.** RCW 49.46.020 and 1989 c 1 s 2 are each amended to read
21 as follows:

22 (1) Every employer shall pay to each of his or her employees who
23 has reached the age of eighteen years wages at a rate of not less than
24 (~~three dollars and eighty-five cents per hour except as may be~~
25 ~~otherwise provided under this section. Beginning January 1, 1990, the~~
26 ~~state minimum wage shall be~~) four dollars and twenty-five cents per
27 hour, except that the wage rate is:

1 (1) Any employer who hinders or delays the director or ~~((his))~~ the
2 director's authorized representatives in the performance of ~~((his))~~ the
3 director's duties in the enforcement of this chapter, or refuses to
4 admit the director or ~~((his))~~ the director's authorized representatives
5 to any place of employment, or fails to make, keep, and preserve any
6 records as required under the provisions of this chapter, or falsifies
7 any such record, or refuses to make any record accessible to the
8 director or ~~((his))~~ the director's authorized representatives upon
9 demand, or refuses to furnish a sworn statement of such record or any
10 other information required for the proper enforcement of this chapter
11 to the director or ~~((his))~~ the director's authorized representatives
12 upon demand(~~(, or pays or agrees to pay wages at a rate less than the~~
13 ~~rate applicable under this chapter, or otherwise violates any provision~~
14 ~~of this chapter or of any regulation issued under this chapter)~~) shall
15 be deemed in violation of this chapter and shall(~~(, upon conviction~~
16 ~~therefor, be guilty of a gross misdemeanor)~~) be assessed a civil
17 penalty of not more than one thousand dollars depending on the size of
18 the business and the gravity of the violation.

19 (2) ~~((Any))~~ (a) An employer who pays or agrees to pay wages at a
20 rate less than the rate applicable under this chapter or any rule or
21 order adopted under this chapter may be assessed civil penalties of an
22 amount equal to twenty percent of the wage violation.

23 (b) An employer who willfully or repeatedly pays or agrees to pay
24 wages at a rate less than the rate applicable under this chapter or a
25 rule or order adopted under this chapter is in violation of this
26 chapter, and shall, upon conviction, be guilty of a gross misdemeanor.

27 (3) Upon a finding by the director that an employer who discharges
28 or in any other manner discriminates against any employee because such
29 employee has made any complaint to his or her employer, to the
30 director, or his or her authorized representatives that he or she has

1 not been paid wages in accordance with the provisions of this chapter,
2 or that the employer has violated any provision of this chapter, or
3 because such employee has caused to be instituted or is about to cause
4 to be instituted any proceeding under or related to this chapter, or
5 because such employee has testified or is about to testify in any such
6 proceeding (~~(shall be deemed in violation of this chapter and shall,~~
7 ~~upon conviction therefor, be guilty of a gross misdemeanor)~~), the
8 director may require an employer who has discharged or discriminated
9 against an employee in violation of this chapter to reinstate the
10 employee to the same position with back pay and interest up to one
11 percent per month.

12 (4) Civil penalties imposed under this chapter shall be paid to the
13 director for deposit in the general fund. Civil penalties may be
14 recovered and other civil remedies authorized by this chapter may be
15 enforced in a civil action in the name of the department brought in the
16 superior court of the county where the violation is alleged to have
17 occurred, or the department may use the procedures for collection of
18 wages set forth in chapter 49.48 RCW.

19 **Sec. 508.** RCW 49.48.040 and 1987 c 172 s 1 are each amended to
20 read as follows:

21 (1) The department of labor and industries may:

22 (a) Conduct investigations to ensure compliance with chapters
23 39.12, 49.46, and 49.48 RCW, upon obtaining information indicating an
24 employer may be committing a violation under chapters 39.12, 49.46, and
25 49.48 RCW(~~, conduct investigations to ensure compliance with chapters~~
26 39.12, 49.46, and 49.48 RCW));

27 (b) Order the payment of all wages owed the workers, including
28 interest of up to one percent per month on back wages owed, and

1 institute actions necessary for the collection of the sums determined
2 owed; and

3 (c) Take assignments of wage claims and prosecute actions for the
4 collection of wages and interest of up to one percent per month on back
5 wages owed of persons who are financially unable to employ counsel when
6 in the judgment of the director of the department the claims are valid
7 and enforceable in the courts.

8 (2) Upon being informed of a wage claim against an employer or
9 former employer, the director shall, if such claim appears to be just,
10 immediately notify the employer or former employer, of such claim by
11 mail. If the employer or former employer fails to pay the claim or
12 make satisfactory explanation to the director of the failure to do so,
13 within thirty days thereafter, the employer or former employer shall be
14 liable to a penalty of twenty percent of that portion of the claim
15 found to be justly due. The director shall have a cause of action
16 against the employer or former employer for the recovery of such
17 penalty, and the same may be included in any subsequent action by the
18 director on said wage claim, or may be exercised separately after
19 adjustment of such wage claim without court action.

20 (3) The director of the department or any authorized representative
21 may, for the purpose of carrying out RCW 49.48.040 through 49.48.080:
22 (a) Issue subpoenas to compel the attendance of witnesses or parties
23 and the production of books, papers, or records; (b) administer oaths
24 and examine witnesses under oath; (c) take the verification of proof of
25 instruments of writing; and (d) take depositions and affidavits. If
26 assignments for wage claims are taken, court costs shall not be payable
27 by the department for prosecuting such suits.

28 ((+3+)) (4) The director shall have a seal inscribed "Department of
29 Labor and Industries--State of Washington" and all courts shall take
30 judicial notice of such seal. Obedience to subpoenas issued by the

1 director or authorized representative shall be enforced by the courts
2 in any county.

3 ~~((4))~~ (5) The director or authorized representative shall have
4 free access to all places and works of labor. Any employer or any
5 agent or employee of such employer who refuses the director or
6 authorized representative admission therein, or who, when requested by
7 the director or authorized representative, willfully neglects or
8 refuses to furnish the director or authorized representative any
9 statistics or information pertaining to his or her lawful duties, which
10 statistics or information may be in his or her possession or under the
11 control of the employer or agent, shall be guilty of a misdemeanor.

12 (6) An action for relief under this section shall be commenced
13 within three years after the cause of action accrues, unless a longer
14 period of time applies under law.

15 **Sec. 509.** RCW 49.48.060 and 1971 ex.s. c 55 s 4 are each amended
16 to read as follows:

17 (1) If upon investigation by the director, after taking assignments
18 of any wage claim under RCW 49.48.040, it appears to the director that
19 the employer is representing to ~~((his))~~ employees that ~~((he))~~ the
20 employer is able to pay wages for their services and that the employees
21 are not being paid for their services or if the director determines an
22 employer has repeatedly violated the provisions of chapter 39.12, 49.46
23 or 49.48 RCW requiring payment of wages, the director may require the
24 employer to give a bond in such sum as the director deems reasonable
25 and adequate in the circumstances, with sufficient surety, conditioned
26 that the employer will for a definite future period not exceeding six
27 months conduct ~~((his))~~ business and pay ~~((his))~~ employees in accordance
28 with the laws of the state of Washington.

1 (2) If within ten days after demand for such bond the employer
2 fails to provide the same, the director may commence a suit against the
3 employer in the superior court of appropriate jurisdiction to compel
4 ~~((him))~~ the employer to furnish such bond or cease doing business until
5 ~~((he))~~ the employer has done so. The employer shall have the burden of
6 proving the amount thereof to be excessive.

7 (3) If the court finds that there is just cause for requiring such
8 bond and that the same is reasonable, necessary or appropriate to
9 secure the prompt payment of the wages of the employees of such
10 employer and his compliance with RCW 49.48.010 through 49.48.080, the
11 court shall enjoin such employer from doing business in this state
12 until the requirement is met, or shall make other, and may make
13 further, orders appropriate to compel compliance with the requirement.

14 ~~((Upon being informed of a wage claim against an employer or former
15 employer, the director shall, if such claim appears to be just,
16 immediately notify the employer or former employer, of such claim by
17 mail. If the employer or former employer fails to pay the claim or
18 make satisfactory explanation to the director of his failure to do so,
19 within thirty days thereafter, the employer or former employer shall be
20 liable to a penalty of ten percent of that portion of the claim found
21 to be justly due. The director shall have a cause of action against
22 the employer or former employer for the recovery of such penalty, and
23 the same may be included in any subsequent action by the director on
24 said wage claim, or may be exercised separately after adjustment of
25 such wage claim without court action.))~~

1 PART VI

2 APPROPRIATIONS

3 NEW SECTION. **Sec. 601.** The sum of five hundred thousand
4 dollars, or as much thereof as may be necessary, is appropriated for
5 the biennium ending June 30, 1993, from the general fund to the
6 department of labor and industries for additional full-time equivalents
7 to enhance enforcement of employment standards.

8 NEW SECTION. **Sec. 602.** The sum of seventy-five thousand
9 dollars, or as much thereof as may be necessary, is appropriated for
10 the biennium ending June 30, 1993, from the general fund to the
11 department of social and health services for the purpose of
12 establishing an additional employer liaison position as provided in
13 section 303 of this act.

14 NEW SECTION. **Sec. 603.** The sum of one million six hundred
15 thousand dollars, or as much thereof as may be necessary, is
16 appropriated for the biennium ending June 30, 1993, of which eight
17 hundred thousand dollars shall come from the general fund and eight
18 hundred thousand dollars shall be matched by federal child care and
19 development block grant funds to the department of social and health
20 services for the purposes of this act.

21 PART VII

22 MISCELLANEOUS

23 NEW SECTION. **Sec. 701.** This act shall be known and may be cited
24 as the "Foundation for Families Act of 1991."

1 NEW SECTION. **Sec. 702.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 703.** Part headings as used in this act
6 constitute no part of the law.

7 NEW SECTION. **Sec. 704.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and shall take
10 effect immediately, except for sections 404 through 408 and section 505
11 of this act, which shall take effect July 1, 1991.

12 NEW SECTION. **Sec. 705.** Sections 201 through 209 of this act
13 shall take effect September 1, 1991.

14 NEW SECTION. **Sec. 706.** Sections 404 through 406 and section 408
15 of this act are each added to chapter 49.12 RCW.

16 NEW SECTION. **Sec. 707.** Sections 502 through 504 of this act are
17 each added to chapter 49.46 RCW.